



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE TRUSTEES FOR THE MASON TENDERS
DISTRICT COUNCIL WELFARE FUND, PENSION
FUND, ANNUITY FUND, AND TRAINING
PROGRAM FUND et al.,

Petitioners,

-v-

J&J ASBESTOS ABATEMENT CORP.,

Respondent.

14-CV-6376 (JMF)

MEMORANDUM OPINION
AND ORDER

JESSE M. FURMAN, United States District Judge:

On August 11, 2014, Petitioner filed a Petition to Confirm Arbitration. (Docket No. 1). On August 27, 2014, the Court set a briefing schedule for Petitioner's submission of any additional materials in support of the Petition, Respondent's opposition, and Petitioner's reply. (Docket No. 3). Petitioner served Respondents with the Petition, supporting materials, and the briefing schedule. (Docket Nos. 5-7). Pursuant to the briefing schedule, Respondent's opposition was due no later than April 24, 2013. (Docket No. 3). To date, Respondent has neither responded to the petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, "as akin to a motion for summary judgment based on the movant's submissions." *Trustees for Mason Tenders Dist. Council Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Const. Corp.*, 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration

awards). After reviewing the petition and the supporting materials, the Court finds that there is no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award. Accordingly, the Court grants Petitioner's unopposed petition to confirm the entire Award.

Petitioner is directed to submit a proposed Judgment consistent with this Memorandum Opinion and Order to the Orders and Judgments Clerk of this Court by **November 7, 2014**.

SO ORDERED.

Dated: October 31, 2014
New York, New York



JESSE M. FURMAN
United States District Judge